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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,131	01/29/2004	Walter Jones	04116-P0001B	4367
24126	7590	06/07/2006	EXAMINER	
ST. ONGE STEWARD JOHNSTON & REENS, LLC			CHEN, JOSE V	
986 BEDFORD STREET			ART UNIT	
STAMFORD, CT 06905-5619			PAPER NUMBER	
			3637	

DATE MAILED: 06/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/767,131	<b>Applicant(s)</b> JONES, WALTER	
	<b>Examiner</b> José V. Chen	<b>Art Unit</b> 3637	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 March 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1, 4-6, 8-10, 13-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 4-6, 8-10, 13-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

The affidavit under 37 CFR 1.132 filed 03/13/06 is insufficient to overcome the rejection of claims 1, 4-10, 13-31 based upon Bendalari, Berman, Hairston et al as set forth in the last Office action and Blackmore in the instant invention because: the information presented fails to set forth facts that are germane to the rejection at issue, the showing is not commensurate in scope with the claims.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, 4, 5, 6, 8, 9, 10, 13, 14, 20, 21, 22, 23, 28, 29, 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blackmore in view of Berman. The patent to Blackmore teaches structure substantially as claimed including a table cover comprising a resilient material, side drops extending from the sides of the cover to a

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free end, drop fold areas, binding structure, the only difference being that the structure is not a polymeric structure, the fold areas are not specifically "folded for binding" and that the shape of the fold areas are not specifically triangular. However, the patent to Berman teaches the use of providing plastics in the formation of covers to be old to be old. It would have been obvious and well within the level of ordinary skill in the art at the time of the invention was made to modify the structure of Blackmore to include an alternative material, such as plastics as taught by Berman since such structures are conventional alternative structures used in the same intended purpose thereby providing structure as claimed. Further, the use of well known folding techniques and shapes, such as those used in gift wrapping to provide a contoured shape covering would have been obvious and well within the level of ordinary skill in the art since such. To use attaching structures that are again well known and commercially available, such as , adhesives, stitching, heat sensitive adhesives , would have been obvious and well within the level of ordinary skill in the art since such is used for the same well known intended purpose. The dimensions would have been obvious in view of the structures to be covered. The use of identifying or decorative indicia including embossing are well known arts and crafts structures. To use such in the same intended purpose would have been obvious and well within the level of ordinary skill in the art. The method would have been obvious in view of the structures.

Claims 15-19, 24-27, 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blackmore in view of Berman as applied to the claims above, and further in view of Hairston et al. The patent to Blackmore in view of Berman teaches

structure substantially as claimed as discussed above including a table cover, the only difference being that a skirt is not attached to the cover. However, the patent to Hairston et al teaches the use of providing a skirt on a cover to be old. It would have been obvious and well within the level of ordinary skill in the art at the time of the invention was made to modify the structure of Blackmore in view of Berman to include a skirt, as taught by Hairston et al since such structure is used in the same intended purpose thereby providing structure as claimed. It is repeated the use of attaching structures that are again well known and commercially available, such as, adhesives, stitching, heat sensitive adhesives , would have been obvious and well within the level of ordinary skill in the art.

#### ***Response to Arguments***

Applicant's arguments filed 03/13/06 have been fully considered but they are not persuasive.

#### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

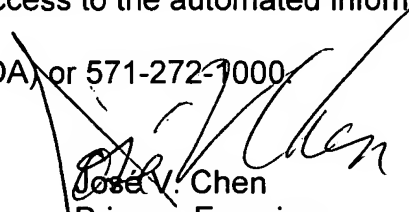
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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to José V. Chen whose telephone number is (571)272-6865. The examiner can normally be reached on m-f,m-th 5:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571)272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
José V. Chen  
Primary Examiner  
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Chen/jvc

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